

From: Ray Drainville / Argument from Design
To: Microsoft ATR
Date: 12/8/01 7:13am
Subject: Microsoft Settlement

To Whom it May Concern:

I'm adding my voice to those who are against the settlement with Microsoft over its monopolistic practices, as that settlement stands today. There are some simple, yet important reasons why I'm doing this:

* Having MS give away a billion dollars worth of software & refurbished hardware to the country's poorest schools doesn't punish the company: what it does is greatly strengthen their hand in one of the last areas in which they don't currently have a monopoly. One possible solution would be to have MS donate one billion dollars to these schools, to have them use this money for IT as the schools see fit.

* This billion-dollar giveaway looks very expensive for MS on paper, but that number is based upon the market value of the hardware & software: the actual cost to MS is estimated to be about one-tenth of that figure. This seems a ludicrously tiny settlement for such an important violation of law. Once again, forcing MS to donate one billion dollars to these schools would be a more effective way to punish the company.

* As the settlement stands, it requires MS to share various types of code with commercial rivals; 'commercial' is spelled out in the document quite clearly. However, currently MS's strongest competitors come from non-profit entities: Apache (web-serving software), Linux, Perl, and those who are building a compatible & free version of MS's .NET initiative. By not specifically including these non-profit organizations in the settlement documentation, the DoJ is allowing MS to protect its monopoly from those organizations who are most strenuously competing with it.

* The settlement does nothing to propose what is to be done should MS violate the agreement. What if MS is proven to be acting in an uncompetitive fashion again? The agreement does not give the DoJ any teeth in enforcing the settlement. It doesn't give MS any reason to comply.

I would strongly urge the DoJ to be extremely cautious when writing up settlements with Microsoft. History has shown that the company is more than willing to violate agreements, and the past decade or so has seen them disregard mild remedies in order to pursue their own interests. Give the settlement some teeth; Microsoft, after all, was found guilty. Currently, they won't even admit that.

Best,

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